

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

Freedom From Religion Foundation,
Inc.,

Plaintiff,

v.

Case No. 9:12-cv-19-DLC

Chip Weber, Flathead National Forest
Supervisor; and

United States Forest Service, an
Agency of the United States
Department of Agriculture,

Defendants,

and

William Glidden, Raymond Leopold,
Norman DeForrest, Eugene Thomas,
and the Knights of Columbus
(Kalispell Council No. 1328),

Intervenor-Defendants.

RENEWED JOINT MOTION TO SUSPEND TRIAL DATE

All parties to this litigation jointly move the Court to suspend the trial date currently set in this matter for June 17, 2013. Under Rule 16

of the Federal Rules of Civil Procedure, a schedule may be modified “for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). The “good cause” standard “primarily considers the diligence of the party seeking the amendment.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). It serves largely to exclude “carelessness” as a reason for modifying a scheduling order, because “carelessness is not compatible with a finding of diligence and offers no reason for a grant of relief.” *Id.* Here, the parties have been diligent in meeting all deadlines and seek to suspend the trial date only for reasons of judicial efficiency and the Court’s and parties’ mutual convenience.

The trial in this matter is currently set to commence on June 17, 2013. The defendants’ motions for summary judgment are currently pending, and the parties anticipate that many or all of the issues before the Court may be resolved as a matter of law. Moreover, to the extent the Court identifies disputed issues of material fact, the parties anticipate that there may be agreement that some of those factual disputes will be amenable to resolution by the Court on the papers under Federal Rule of Civil Procedure 52. Until the Court rules on the pending motions for summary judgment, however, the parties cannot

know what disputed issues of material fact may remain, whether live witnesses will be required, and whether any issues may be omitted from their trial preparations. The June 17 trial date thus will require the parties to engage in significant preparations that may prove to be wholly unnecessary.

For these reasons, the parties jointly request that the June 17 trial date be suspended and that a new trial date be set, if necessary, only after the motions for summary judgment have been resolved and the parties have attempted to reach agreement regarding the proper method for resolving any remaining disputes.

Respectfully submitted,

/s/ Eric S. Baxter

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Dated: April 25, 2013

**CERTIFICATE OF COMPLIANCE
WITH CIVIL LOCAL RULE 7.1(d)(2)**

I hereby certify that the foregoing *Renewed Joint Motion To Suspend Trial Date* contains 478 words, excluding the caption page and certificates, but including the signature block.

/s/ Eric S. Baxter

Eric S. Baxter

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2013, I caused the foregoing
Renewed Joint Motion To Suspend Trial Date to be served via the
Court's electronic case filing system on the following counsel of record:

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